# McGowan Declaration – Exhibit A
# Part 1 of 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

| | | |
|---|---|---|
| DIANE J. SCHROER, | : | |
| Plaintiff, | : | |
| v. | : | CA No. 06-763 |
| JAMES H. BILLINGTON, | : | |
| Defendant. | : | |

Washington, D.C.

Thursday, January 11, 2007

Deposition of CHARLOTTE P. PREECE, called for examination by counsel for Plaintiff, pursuant to notice, at the Law Offices of 1875 Pennsylvania Avenue, N.W., Washington, D.C., and commencing at 9:10 a.m., before Barbara a. Huber, Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

APPEARANCES:
On behalf of Plaintiff:
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Also Present:

Jessie James, Jr.
Julia Douds

* * * * *



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PROCEEDINGS

Whereupon,
CHARLOTTE P. PREECE,
was called as a witness by counsel for Plaintiff, and having been duly sworn, by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MS. McGOWAN:

Q Good morning, Ms. Preece. My name is Sharon McGowan. And I'm here with my colleague, James Esseks. And we represent the Plaintiff in Schroer versus Billington. And we're here this morning to take your deposition.

Have you ever been deposed before?

A No.

Q Okay. So I'm just going to go through a series sort of instructions and tips so that you understand how things are going to proceed today, and that the court reporter can take everything down. I will ask you a series of questions that you will answer under oath, as you've just been sworn. And the court reporter will take it all



down. Okay?

A Okay.

Q And it's important that you answer out loud, because the court reporter cannot record a nod of the head or a gesture. Okay?

A I understand.

Q The court reporter also cannot -- or it's difficult for her to record when two people are talking at the same time. And so I will certainly try not to interrupt you. And at the same time, it's important for me to get the question out so that the court reporter can have a clear transcript. Okay?

A Okay.

Q Okay. And if you don't understand a question, will you ask me to repeat it and to clarify?

A Yes.

Q Okay. And if you do answer a question, I will assume that you understood it. Okay?

A Yes.

Q I will take breaks throughout the day.

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But if you need a break, just let me know and I'll find a place that we can stop for a few minutes. Okay?
A Fine.
Q Are you feeling well today?
A Sure, yes, uh-huh.
Q Are you taking any medication today that would prevent you from being able to give complete and accurate testimony?
A No. I mean, I'm taking medication, but not that would.
Q Okay. Is there any other reason that you would not be able to give complete and accurate testimony today?
A No.
Q Okay. Before we start with your questions, I wanted to just lay out a few terms that we'll be talking about today. The first term or pair of terms is "transgender" and "transsexual."
What do you understand the term "transgender" to mean?

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A If someone is changing physical appearance from one sex to another.
Q Okay. And anything else?
A And becoming that sex, living as that sex.
Q Okay. What do you understand the term "transsexual" to mean?
A I thought they were synonymous.
Q Okay. For purposes of this deposition, when I talk about transgender or transsexual applicants, I'm referring to individuals who intend to or have transitioned from living as the gender that they were assigned at birth; for example, on their birth certificate, to living as the gender that they feel they are on the inside. This includes individuals who have a formal diagnosis of gender identity disorder.
And so in this case, for example, Diane Schroer is a transsexual woman. She was assigned the gender male at birth, on her birth certificate, but now lives and presents herself to the public as female. The term "transgender"

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sometimes is used differently from "transsexual." But for purposes of today, I will use the term synonymously.
A Okay.
Q And so if there's at any point where you're unclear about what the definition is that we're talking about, definitely please feel free to ask me that and I will try to clarify.
And so is that okay?
A Yes.
Q This case involves a dispute about the hiring decision made for the position of specialist in terrorism and international crime. Over the course of this deposition I may refer to this as the terrorism specialist position. Okay?
A Fine.
Q And, finally, the plaintiff in this case is Diane Schroer. At the time of the events in this case, Ms. Schroer went by the name of David Schroer. So during this deposition when I talk about Diane Schroer or Ms. Schroer, I'm also referring to the person formerly known as David

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Schroer. Okay?
A And is it appropriate for me to refer to him as David during the period that I knew him as such?
Q That is fine. If you want to use Mr. Schroer, David Schroer, or Ms. Schroer, or Diane Schroer, we will understand, for purposes of the deposition, that we are talking about one person.
A Okay.
Q Okay. What is your title?
A I'm the assistant director for foreign affairs, defense, and trade.
Q And where do you work?
A In the medicine building of the Library of Congress.
Q And you are the assistant director of a service unit at the Congressional Research Service; is that correct?
A Of a research division.
Q A research division. Okay.
And what are your specific job

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responsibilities?
A I supervise about just shy of a hundred people, probably about 85 research analysts, who do work for the United States Congress on foreign affairs, defense, and trade.
Q And how many of those analysts are in positions requiring security clearances?
A Most of the trade people not. Most of the foreign policy people do. All the defense people do.
Q And, roughly, the number of -- of the 85 research analysts, what number does that amount to of analysts that have a security clearance component of their job?
A I'd say 75 to 80 percent have clearances.
Q Who do you report to?
A The director of the Congresional Research Center.
Q Who is?
A Dan Mulhollan.
Q Okay. And who reports to you?

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A The people that I supervise. I have six intermediate managers, or seven rather section heads. I have a deputy. I have an administrative support person. I have two project management coordinators. And the rest are analysts.
Q And how long have you been with the Library of Congress?
A Since 1976.
Q And when did you take over the position that you currently hold?
A I became acting division chief in late 1991. I became permanent division chief in early 1994. There was a reorganization roughly six years ago. And trade people were moved into the division. And then instead of being a division chief, I became the assistant director for foreign affairs, defense, and trade.
Q And that was 2000 or 2001?
A Roughly 2000, yes.
Q Do the analysts that you report to report directly to you?
A No. They have a section head.

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Q And for the position of terrorism specialist, to whom would that analyst report?
A The head of the foreign policy management and global issues section. And that would be Francis Miko, M-I-K-O.
Q And Mr. Miko was the supervisor at the time of the events in this case; is that right?
A That's correct.
Q Were you the person responsible for hiring the terrorism specialist?
A Yes, I was the security officer.
Q Okay. Was the terrorism specialist position a newly created position that you were filling?
A No.
Q Okay. Who held the position previously?
A Audrey Kurth Cronin.
Q Can you spell that name?
A Kurth is K-U-R-T-H. And Cronin is C-R-O-N-I-N. Audrey is her first name.
Q Oh, Audrey. Okay.
A I saw you had it written down, so --

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Q When did Ms. Kurth Cronin inform you that she intended to leave the position?
A In July of 2004.
Q And did she inform you why she was leaving the position?
A Yes.
Q And why was that?
A She had accepted a teaching position, a faculty position, at the National War College.
Q And what was her last day on the job?
A It was the last week of July. I can't remember the specific date.
Q Did you need to do anything to get approval to begin the process of replacing Ms. Kurth Cronin in the position?
A I did.
Q What did you do?
A I had to make a special appeal to the director.
Q And what did that involve?
A A short memo, going down to talk to him, saying why we needed a person when we did, because

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provided to me. If it -- sometime the person just says I have nothing else to add. Sometimes people will elaborate on previous experience. I weigh that with their answers to the rest of the questions.

Q And, for example, marriage to a foreign national is, am I right, something that potentially has a security clearance implication?

A Potentially.

Q If someone did not reveal that information to you during the interview or in response to that question, but that information came up in the course of a personnel -- of a background check, how would that impact your assessment of whether or not this person was your top candidate?

MS. RUSSELL: Objection. Calls for speculation.

THE WITNESS: Again, I think we're out of order in sequence in what happens in the process. I make a recommendation. It goes to personnel security. If the person didn't tell me

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they were married to a foreign national, and in the security clearance investigation -- now, let's assume here that we have -- we're doing a person who has a clearance. Okay. And they're married to a foreign national.

I make a recommendation -- they don't tell me they're married to a foreign national. It goes to security clearance. If there are no problems, I don't even know that the person is married to a foreign national. I know if a problem arrises in personnel security. Then Cynthia will call me.

I had a case recently where I was selecting an employee for a position. When I asked that last question, said one thing you might want to know about me is I am married to a foreign national. He said I don't think this will cause a problem with my security clearance. And I was willing to make the recommendation and go forward. The gentleman had previously held security clearances. It may delay the time it takes to process his clearance.

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BY MS. McGOWAN:

Q And so just to be clear, in that case, even though you knew that there was some information about this person that might slow down the security clearance process, you went forward with the recommendation; is that right?

A That's correct.

Q And for that person, how long did it take for them to complete the security clearance process?

A This is a very new employee, so I don't know.

Q And what kind of job was this?

A It's an analyst.

Q And in what --

A It was --

Q -- in the very --

A -- in a regional area.

Q Regional area.

A The foreign policy regional area.

Q What's the full title of the position?

A I think it's specialist in European

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affairs. It's either analyst or specialist. I can't remember what GS level it is. Special confers a GS level, GS-15. The positions GS-14 and below are analysts.

Q And was there any time sensitivity with respect to filling that position?

A We requested a waiver. And so the analyst could start right away.

Q But with respect to actually sort of getting the final candidate into the position, was this what you would have considered to be a more urgent hire?

MS. RUSSELL: Objection to the form of the question.

THE WITNESS: Not as urgent as the other position. It was to replace someone who was not yet retired.

BY MS. McGOWAN:

Q But this was still a position that you wanted to fill quickly; is that right?

A Not quickly, no. I mean, this was to replace a person who was not yet retired. We

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often try to bring people in a year or two before we anticipate someone retiring, to allow them to work with them, to get up to speed, to learn the culture, what we do.

So this was not a position like the terrorist position, which was much more critical to the nature of the work. And we had a person who left. We had no one.

Q Even though this wasn't a position where you were filling a vacancy, you still requested a waiver to expedite the process of bringing this new-hire on; is that right?

MS. RUSSELL: Objection to the form of the question.

But you can go ahead and answer.

BY MS. McGOWAN:

Q Well, let me break that down.

A You always request a waiver. The person can start. It doesn't -- it's not to stall their hiring. What it stalls is their ability to use classified information. But they can still work here. It doesn't --

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Q Has there ever been a situation where prior to filling out a personnel action form or a PAR with respect to a position for which you were the selecting official, where you called the personnel security office to find out whether there would be any problem getting a waiver for a candidate if they were selected?

A I can't think of any.

Q Is that the kind of call you could make if you wanted to get a preview of the personnel security office's opinion about a candidate and their eligibility for a waiver?

A No. I mean, if I have a question, I can call Cynthia at any time.

Q Is the situation in this case involving Ms. Schroer a case where you called the personnel security office before filling out a PAR to find out about whether or not information about that applicant would affect anything with respect to their security clearance?

A There was never a PAR prepared for Mr. Schroer.

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Q Right. That's my question.

In this case, you called and had a meeting with the personnel security office prior to your filling out a PAR for this position?

A I did not fill out the PAR. I write a letter of recommendation to the director.

Q And the letter of recommendation precedes --

A The filling out --

Q -- the filling out of any PAR?

A Correct.

Q Okay. So in this case, just to make sure we're on the same page, you had a conversation with the personnel security office about information regarding Ms. Schroer and her security clearance that came prior to your filling out any recommendation, and prior to your filling out any PAR for the position; is that right?

A Prior to my completing a letter of recommendation. And as I said, the office of workforce prepares the PAR. I do not.

Q Okay. Is that the only case where you

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have had that kind of conversation with the personnel security office?

MS. RUSSELL: Objection to the form, but --

THE WITNESS: Again, please.

BY MS. McGOWAN:

Q Is the case involving Ms. Schroer the only case where you have had a conversation with the personnel security office about information that -- of -- that may involve security clearance implications prior to your writing a recommendation for a candidate?

A I believe so.

Q And so, for example, in this case that we were just talking about with respect to the specialist in European affairs, you did not reach out to the personnel security office to find out whether this individual's marriage to a foreign national might have security clearance implications; is that right?

A This individual was savvy enough that he requested a meeting, with the personnel security

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office in my presence, to go over whatever implications it might have.
Q And when did he make that request?
A I don't remember. I can't remember if it was before he was hired or it was after he came on board, but it was within a short period on either side of that.
Q But he did not make that request during the interview, for example?
A No.
Q Okay. Did he make that request before or after you had written your formal memo of recommendation for him?
A I can't remember.
Q And did you have any conversations with the personnel security office about how this information might impact this applicant's security clearance process?
A No.
Q And you said you did submit a waiver of the pre-appointment security clearance investigation for this employee; is that right?

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A Yes.
Q And it was granted, correct?
A Yes.
Q Are there any documents that reflected what happened in that case with respect to your request for a waiver?
A My usual two-line request. That's -- and then if there are documents, personnel security would have them. I don't.
MS. McGOWAN: I think we'll take a break. So we'll convene back in five minutes.
(Recess)
BY MS. McGOWAN:
Q So we're back on the record. And we were discussing a number of different employees. I just wanted to sort of run through them. We had what I'll call employee A, which was the employee that had the issue come up during their periodic review. And we had employee B -- employee A was the one who had the issue back sort of about the tax issue. Employee B was the employee who had some issues coming up with respect to their

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conduct while they were living overseas.
And then we had employee C, who was the applicant for whom the PAR had been generated, and then criminal -- information about their background of a criminal nature came to light. And then we had employee D, who was the employee who has recently been hired at CRS who was married to a foreign national. So we got those four employees.
With respect to employee C, where there had been a PAR generated and then you withdrew the offer, you mentioned that you ultimately pulled the posting and did not hire the position?
A That's correct.
Q Why --
MS. RUSSELL: Actually, I'm going to object to the form of the question.
But you can go ahead and answer.
BY MS. McGOWAN:
Q Well, am I correct that with respect to the position that employee C had been applying for, that once you learned this information from

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the employee, you withdrew your offer; is that right?
A He wasn't an employee. He was an applicant.
Q I'm sorry. The applicant for that position, you withdrew the offer of employment; is that right?
A That's correct.
Q Okay. And then you ultimately did not fill that position; is that right?
A That's correct.
Q And why was that the case?
A We thought it was cleaner to re-post.
Q And did you ultimately re-post for that position?
A Yes, we did.
Q And what was the lag time between closing the posting or closing the process for the first time and posting the second time?
A I can't remember. It was 15 or more years ago.
Q Okay. And what was that position?

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A An analyst in intelligence.
Q Did that position deal with terrorism at all?
A It dealt with the agencies who were likely to oversee terrorist activities.
Q So we've got employee A, B, C, and D that we've just gone through?
A Right.
Q Are there any either employees or current employees or applicants for employment where information came up in the course of either that candidate's application or the employee's tenure of a security clearance concern?
A Not of a security clearance concern.
Q And you mentioned -- and I'm paraphrasing here -- that you asked all of your applicants whether there is anything else about them that they should -- that you think that they should tell you or that they should think that you should want to know. And we discussed employee D, who mentioned, for example, that he was married to a foreign national.

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Have there been other circumstances where applicants have told you information in response to that question that caused you to say, huh, I wonder, this seems like it might have some bearing on the security clearance requirement for the position?
A I'd say the only other case is if they themselves are dual citizens. And there, it would have an affect. Because if they were a dual citizen, they would have to renounce their citizenship from the other country to be eligible to get a security clearance.
Q And there been cases where individuals have identified themselves as dual citizens?
A Yes.
Q And was there more than one case?
A Yes.
Q Roughly how many? Do you remember?
A Two that I can think of.
Q Two. Okay. And what were the positions -- I don't know if they were both applying for the same position, or they were two

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different positions -- that these applicants were applying for?
A Can I make a correction first?
Q Sure.
A Employee D, I said that he was an analyst or specialist in European affairs.
Q Uh-huh.
A He was an analyst in Middle Eastern affairs.
Now if I can ask you to repeat your question, please.
Q Sure. Well, actually, let me -- with respect to this analyst in Middle Eastern affairs, is there any aspect of this job that involved terrorism?
A Well, certainly tracking terrorist groups in the region, yes.
Q Anything else?
A No.
Q And so we were talking about the two

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instances where applicants had identified themselves as dual citizens.
My first question was what position or positions were these applicants applying for?
A The position for -- let's call this person applicant E. The first dual citizen did not require a security clearance.
Q Okay.
A The second position with a dual citizen was for an analyst in European affairs. That did require a security clearance. And the individual worked with the office of personnel security to renounce the citizenship of the other country.
Q And we'll call this person --
A F.
Q -- applicant F.
A Got it.
Q Okay. And with respect to applicant E, was that an analyst position?
A Yes.
Q Okay. And what was the title, more or less?

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A Broadly, international affairs, United Nations, humanitarian assistance, those kinds of issues.
Q And I assume the citizen was U.S. and something else?
A British.
Q British. And how did this information affect your assessment of this candidate, if at all?
A I made a determination that she didn't need a clearance to perform her work. And so it didn't affect my decision at all.
Q And was this applicant ultimately the candidate that you recommended for the position?
A Yes.
Q And at any point -- well, is this applicant who's now an employee, still an employee of CRS?
A Yes, she is.
Q And during her tenure at CRS, has there come any point where she had need to apply for a security clearance?

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A No.
Q Okay. With respect to applicant F, this applicant was also a dual citizen.
And so what were the duel citizenships involved?
A Again, U.S. and British.
Q Okay. And how, if at all, did this information about the applicant being a duel citizen impact your assessment of the candidate?
A Well, I asked the candidate -- made him aware, first of all, that to get a security clearance he would have to renounce his foreign citizenship, and is this something he would be willing to do. He said yes. And we proceeded to hire him.
Q And do you have an understanding of what's involved in the process of renouncing citizenship?
A The person goes down and has an appointment with Cynthia Wilkins. And Cynthia walks them through the process. I do not sit in on that.

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Q Okay. And do you know whether or not this individual completed their renouncement of their British citizenship prior to your recommending their employment at CRS?
A I don't know.
Q When did you --
A Prior to their employment, yes. It would have been prior to the employment, yes, prior to the hiring.
Q And so at the time that you wrote your memorandum --
A My recommendation.
Q -- recommending their hire, am I right that at that point the individual had not yet renounced their citizenship, to your knowledge?
A I don't know. I don't know the timing, the sequencing on that.
Q Did you have any conversations with Cynthia Wilkins about working through this dual citizenship issue for this applicant?
A Yes, I did.
Q Okay. Tell me about that.

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A I asked Cynthia what does he need to do. She said he needs to come in and make an appointment with me, which he did. And I think I got a subsequent call from Cynthia that everything was okay.
Q And when did you make this contact with Cynthia Wilkins, sort of where in the process?
A Probably after the interviews were concluded, but before I wrote a recommendation.
Q And did you have any conversation with Cynthia Wilkins about how long it would take to complete this process of renouncing a dual citizenship?
A It was a matter of sitting down and having an appointment. It was not a protracted process.
Q And at any point between when you recommended the hiring of this candidate in the memorandum and when they came on to the position, were there any other security clearance issues other than the dual citizenship that came up?
A No.

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Q Okay. Did you request a waiver of the pre-appointment security clearance investigation for this person?
A Yes.
Q And was it granted?
A Yes.
Q Okay. So we now have applicant A through F.
Are there any other applicants or employees that had -- that brought to your attention information that had a security clearance dimension that you needed to address?
A That's all I can think of.
Q Okay. Have you ever decided to go with a candidate who -- for employment who perhaps originally was your second or third choice over the candidate who had been your first choice, due to concerns that your first choice candidate might take longer to go through the security clearance process?
A No. I mean, if the interview is completed and nothing comes up during the

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interview that would lead me to question, then I -- I'm shooting kind of blind.
Q Okay.
A Do you understand what I mean?
Q I'm not sure, actually.
A If the person -- if two people come through and interview -- and you're the first choice and you're second choice --
Q And you're referring to me and James, as --
A Exactly.
Q -- hypothetical people?
A I'm sorry. Exactly. Person A and person B. And nothing comes up to lead me to be suspicious or questioning of your qualifications or credentials, I would go with applicant A. If Cynthia Wilkins subsequently turned up something in an investigation that would change our mind, then I could switch to person B.
Q Okay. And am I right that the situation that we were discussing with respect to employee C, the individual who had information come up

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after the background check, is perhaps the closest case to that, where this candidate had been your top choice, you found information, didn't go with them; but in that case, rather than going with a second choice from that original pool, you decided to re-post; is that correct?
A That's correct.
Q Okay. And so thinking back through all of your interviews with the various applicants, has there ever been a situation where you had, you know, applicant A and applicant B; and applicant A was your top choice, based on everything you had heard in the interview, but then at the end, in response to your anything else question they revealed some information that may or may not have a security clearance component, might lead to a delay or a more cumbersome security clearance process?
Has there ever been a case like that, where you've had an applicant reveal that information, and then you said, you know, I'm actually going to go with applicant B so I don't

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have to deal with the issues that applicant A, you know, may or may not have, based on what they've just told me?
A I can't think of one.
Q In the beginning, we started off talking about the process for hiring the terrorism specialist position. So I just wanted to go back to that. You know, we were talking about sort of how the vacancy first emerged. And that, you said, was due to someone leaving the position.
At that point, with respect to beginning the process for filling the position, were you involved in any processes for determining the qualifications that would be necessary for someone filling the terrorism specialist position?
A Yes.
Q Who else was involved?
A Francis Miko, and Steven Bowman.
Q And who are they?
A Two of the seven section heads. Francis Miko holds -- is the section head where this position resides, the specialist in terrorism.

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to complete the hiring process?
A I can't remember.
Q So once you decided -- let me take those documents back from you.
A Okay.
(Handing document).
Q Once you decided how many candidates to interview, what did you do next?
A I gave my package of applications to my administrative assistant, Rita Banks, who scheduled the interviews.
Q And did you give Ms. Banks any particular instructions about when she should set up interviews?
A Yes. I asked her to try to schedule them as soon as possible.
Q Okay. And how many interviews per day were you hoping to schedule?
A Two. Sometimes if a third one had to be squeezed in, we squeezed in a third.
Q And how long did it take Ms. Banks to actually set up the interviews?

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A I don't remember. She would schedule them piecemeal. She would schedule one, and then send us an updated list the next day. And as she got people, contacted people. We started the interviews in mid October.
Q I'm going to show you two documents that we'll mark as Exhibits 23 and 24.
(Deposition Exhibit No. 23 and 24 marked for identification.)
BY MS. McGOWAN:
Q And document 23 is a document that was produced by the Government in discovery. It's been Bates-stamped number 158 to 160. On the front of the first page it says memorandum, dated September 17th, 2004. And then Exhibit 24 is a document that has been produced by the Government in discovery. It's bates-stamped number 165. And at the top it says, Charlote Preece, interview update, 10/28/04.
Looking at Exhibit 23, pages 159 and 160 particularly, do you recognize this list?

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A Yes.
Q And what is it?
A It is the list of the 18 people.
Q Okay. And then looking at Exhibit 24, do you recognize this document?
A Yes.
Q And what is it?
A It was from my administrative assistant to the panel, letting us them know when the interviews were scheduled.
Q Was there any attempt to commence interviews earlier than October 26th?
A I don't know.
Q Are you aware of anything that prevented interviews from being scheduled prior to October 26th?
A Not that I can be specific about.
Q So vacations or anything like that come to mind?
A Vacations don't. One of the panelists travels in his job capacity quite a bit. And I do not know whether or not during that first period

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in October if he had any travel. I do not know.
Q And at the top of Exhibit 24, in the beginning of the text, it says, Reply requested when convenient.
Did you reply to this e-mail?
A Yes. That's basically to say that time is okay for you.
Q And so I'm sorry, just to be clear, you sent a reply to this e-mail?
A I may not have. Generally, Rita works from my calendar. And she knows when I'm free or not. So I don't always have to reply. But the other candidates, Francis and Steve, would have --
Q Okay.
A -- presumably.
Q And just to be clear, you mentioned one of the other panel members traveled a lot.
Was that Mr. Miko, or Mr. Bowman?
A Mr. Miko.
Q Okay. So looking at Exhibit 24, it has the second candidate listed at October 27th at 9:00 a.m. as David Schroer.

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Were you involved in the interview with Ms. Schroer?
A I was involved in all the interviews.
Q Okay. Does anything stand out in your mind regarding Ms. Schroer's interview, that you remember?
A I remember thinking very highly of him and his qualifications.
Q And why was that the case?
A Lengthy military background; contacts at the inner agency level, and NSC, the White House, State Department. He had a very good interview, answered the questions cleanly, concisely.
Q Okay. Anything else?
A It was -- as I said, he was one of my top candidates.
Q Did you have any -- well, before I go there, were there any concerns that you had at all about Ms. Schroer?
A No.
Q Any negatives that occurred in your mind over the course of the interview?

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A No.
Q Did you discuss at all during the interview whether Ms. Schroer had an active security clearance?
A I don't think so, but we could have. It wasn't one of the questions in the booklet. And if you've seen one of these structured interview guides -- which I gather you have by now -- if it's not a question in there, we generally don't ask it.
Q And did you discuss Ms. Schroer's employment after leaving the military?
A As part of the first question, he volunteered -- the first question is a very broad question: Please provide any information, knowledge, and experience that would contribute to this job. And I believe during the course of that he told us what he was currently doing.
Q And as part of this course of conversation about Ms. Schroer's work experience, did you have any discussions about whether or not there had been any interruption in the period of

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time that she had held a security clearance?
A No.
Q When Ms. Schroer concluded the interview in response to your question about is there anything else we should know, do you recall what she said?
A No, I don't. I would have to refer to the interview guide.
Q When Ms. Schroer left, after the interview was over, did you and the other panelists make any comments to each other?
A Briefly.
Q And what did people say?
A How he was the second candidate interviewed, and it's nice to know that you have someone that you think can do the job early in the process, rather than to have that person be your 17th or 18th person.
Q That's true.
Did you make comments to that affect, or did someone else?
A I think we all thought he was a strong

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candidate.
Q And looking at Exhibit 24, it lists the first interview on October 26th and the last one on November 16th.
Is that consistent with your recollection of how long it took to complete the interviews?
A Uh-huh. Yes.
Q Upon completion of the final interview on November 16th, what happened next as part of the hiring process?
A We each individually scored all 18 applicants, collected all the application packages and materials. They went back upstairs to Edith Friday. And then it's Edith's job to compile those scores. We see a spreadsheet usually of the scores, how each one of us scored.
And then she sits us down for a meeting, and calls to our attention where -- any instances on any one of these factors we scored -- where the point differential was two points or greater, and asked if we want to talk about that factor and why

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e-mailed back. And he said that he preferred that I not call him, that I speak with two other gentlemen instead.
Q Okay.
A That gave me some suspicion.
Q What kind of suspicion?
A It is -- it was unprecedent for me never -- not to have spoken to a current supervisor. So I had -- he said that this was around the holiday time and this could potentially affect his Christmas bonus, so he prefer that I not speak with this gentleman.
Q And so when you say that that was the point at which you first suspected something, what did you suspect?
A Well, generally when someone tells you they don't want you to speak to their supervisor, you assume that their supervisor may say something that's negative.
Q Did you have any other suspicions about why you were not being authorized to contact Mr. Chrietznberg -- Chrietzberg?

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A No. It just raised an eyebrow.
Q Did you have any discussions with Steve Bowman or Francis Miko about the fact that for Ms. Schroer you did not have the okay to talk to the current supervisor?
A It was probably noted.
Q By "noted," do you mean actually like a physical notation made somewhere?
A No. I probably said I was a little leary that he didn't want me to talk to his current supervisor.
Q And did either Mr. Bowman or Mr. Miko share your concern?
A They thought it was unusual. But I think they had conducted their reference checks and got very glowing reference checks from the other two folks.
Q Do you know when Mr. Miko and Mr. Bowman contacted the references that were assigned to them?
A No. I can't give you the dates.
Q Do you know if the people that are

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listed here, Mr. Daley and Mr. Olsen, are the people that Mr. Miko and Mr. Bowman respectively actually contacted, or did they contact different references?
A I can't remember, but it's on the sheets that you should have.
MS. McGOWAN: I'm going to show you a document that we will mark Exhibit Number 26.
(Deposition Exhibit No. 26 marked for identification.)
BY MS. McGOWAN:
Q This is a two-page document that has been produced by the Government. It's been Bates-stamped number 705 and 706. At the top it says, Charlote Preece, re: Updated references and writing samples.
Do you recognize this document?
A Uh-huh.
Q And you should --
A Yes. Yes.
Q -- certainly take a moment to read it.
A (Witness examined document).

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Q What is it?
A It is an e-mail exchange between David and myself, with Dave giving me some additional contact information, and then my response thanking him for the information, and may I talk to his current supervisor, and then David's response to me indicating two alternative people who are coordinators/supervisors on a job that he was also working on.
Q Did you, after receiving this e-mail from Ms. Schroer, ever indicate either orally or in writing to Ms. Schroer that her request that you not contact her current supervisor was unusual?
A Well, I stated in my message that we have a requirement to conduct a reference check with the perspective employee's current supervisor. But I didn't mention it further to him, no.
Q And to the extent that in this e-mail, the fourth line of the text of the e-mail at the top, where Ms. Schroer identifies Marc Alderman

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and Jeff Brady as her coordinators/supervisors, in your view did that not satisfy the requirement to talk to a current supervisor?
A Yes. I mean, that was the substitute.
Q And so at any point did you tell Ms. Schroer that you really wanted to talk to Walt Chrietzberg, in order to consider the application?
A Not beyond this.
Q Were you satisfied that Marc Alderman and Jeff Brady had sufficient experience with Ms. Schroer to give you a reference that you considered adequate?
A Yes, in terms of fulfilling that requirement to talk to a supervisor, yes.
Q And did you speak to either or both -- or, actually, there's actually three: Marc Alderman, Jeff Brady, and Bill McRaven.
Did you speak to any of these references identified by Ms. Schroer in this e-mail?
A Marc Alderman, to my best -- Alderman to my best of my recollection.
Q And did either you or Mr. Miko or

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Mr. Bowman contact either Mr. Brady or I think that's Rear Admiral McRaven?
A I don't remember. I remember we each did one reference check on each. So I don't know if the folks listed here were the ones contacted, or if McRaven was ever contacted. I would have to look at those sheets.
Q How long after you received this information from Ms. Schroer did you contact the references for Ms. Schroer?
A Between this date and over the next week.
Q Do you remember following up the same day?
A I don't remember.
Q Okay. And did you have any difficulty reaching Marc Alderman?
MS. RUSSELL: Objection to the form of the question.
BY MS. McGOWAN:
Q Well, actually, did you reach Mr. Alderman the first time -- well, let me ask

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this.
How did you first try to contact Mr. Alderman? Did you call him?
A Yes.
Q Okay. Did you reach him when you called him --
A I can't --
Q -- the first time?
A -- I can't remember.
Q Okay. At some point you had a telephone conversation with Mr. Alderman; is that right?
A I did. It was very late. I recall that it was late. It was one of the last ones, if not the last one.
Q And by late, just so I'm clear, do you mean late in the day, late in the week, late --
A Late --
Q -- late relative to what?
A The last reference call.
Q Okay. And what did you talk about? Please describe that conversation to me.
A Asked him about his qualifications, how

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he knows him.
Q I'm sorry. By "his," do you mean Mr. Alderman's --
A I'm sorry. Mr. Schroer.
Q Mr. Schroer's qualifications. Okay. I'm sorry. Please continue.
A Asked him about his writing, what did he consider his strong points, what did he consider his weak points.
Q And what weak points did Mr. Alderman identify?
A If anything, he was an over-achiever and worked too hard.
Q That's a good reference.
A It's a good weak point, yeah, a good weak point to have.
Q Did you discuss with Mr. Alderman the fact that Ms. Schroer had asked you to not contact Mr. Chrietzberg?
A No.
Q Why not?
A I didn't think it was appropriate.

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Q Why not?
MS. RUSSELL: Objection to the form, lacks foundation.
BY MS. McGOWAN:
Q Why did you think it was not appropriate to ask Mr. Alderman why Ms. Schroer didn't want you talking to Mr. Chrietzberg?
A Just thought it was personal information.
Q Okay. How did you wrap things up with Mr. Alderman at the end of the conversation?
A By this time, I was pretty certain who I wanted to recommend. And so I appreciated the call. I thanked him for spending the time. As I did say, this was the last reference. And by that time I probably told him that he was my top candidate. Because by this time Mr. Schroer was my top candidate.
Q And do you recall saying anything to Mr. Alderman along the lines of the fact that the call was a formality?
A Yes, I think I did say something like

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that. I had the reference checks I needed. The fact that he finally got back to me or I finally got back to him -- I think he called me -- I -- you know we -- we included it, but I wouldn't have had to include it.
Q And so you mentioned that by that time you had decided Ms. Schroer was your top candidate.
When did you decide that?
A We were formulating it all along. The three of us were talking. We'd get reference checks back. We'd share those references with one another. We would sit down and talk. And certainly by the middle of December Mr. Schroer was my top candidate.
Q And why?
A I thought he had the best interview. He impressed me the way he thought on his feet.
Q Anything else?
A It was difficult, because the qualifications of the top three people were all exceptional. I would have been happy to have any

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one of them.
Q Okay.
A In terms of their knowledge, the breadth and depth of their knowledge, the level -- high level positions of responsibility they were given. Those were all good and equal. The distinguishing factor that led Schroer to be my top candidate was his performance at the interview.
Q After talking with Marc Alderman, did you -- well, let's ask this.
When did you next speak to Ms. Schroer?
A I can't give you the date.
Q Okay. Do you recall having a conversation with Ms. Schroer sometime after this last correspondence regarding references?
A Yes.
Q Okay.
A And calling him up and asking him if he were still interested in the position, and when he might be available, letting him know that I was about to write up a recommendation.
Q And did you ever indicate to Ms. Schroer

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that you wanted to offer her the job, but only if she was still interested?
MS. RUSSELL: Objection to the form. But you can answer if you understand.
THE WITNESS: Please, again.
BY MS. McGOWAN:
Q Sure. During the conversation, did you ever make a statement to the affect of: I want to hire you, but I only want to go forward with the hiring if you actually want the job?
A Usually I ask the person first are you still interested in the position. And then I let him know I would like to recommend him.
Q Do you recall having any conversations about the salary for that position during that conversation?
Let me just back up for a moment. In your last response you said that usually you ask the person if they're still interested.
And so with respect to the conversation that you actually had with Ms. Schroer, what did you say?

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A I don't remember exactly what I said. But I probably said, David, you're my top candidate. Are you still interested in the position? And he said very much so. And I said, well, then I'd like to begin preparing the paperwork for the recommendation.
Q Okay. And do you recall having any discussions about the salary for that position at that point?
A We did. I can't remember whether it was at that conversation or a subsequent conversation.
Q And what was the nature of that conversation?
A The position was a GS-15 step one. And Mr. Schroer claimed that he was making more money than that in his current capacity, and was there any room for negotiation. And I said I would have to contact our personnel specialist, whose name is Chuck Freyder, and get back to him with that information. And I think I did the following day. I can't remember whether I phoned him or sent him an e-mail.

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Q Who's the "him" in that sentence you called?
A David.
Q David. Okay.
And so at some point did you follow up with Ms. Schroer about what you had learned from --
A Yes. That's what I mean. I --
Q -- what you had learned from your conversation with Mr. Freyder?
A Yes.
Q And tell me about that conversation.
A I can't remember whether it was a conversation or an e-mail. But the response was basically if he could provide proof of the salary level, it'd be possible to bring him on as high as a GS-15, step ten.
Q After this correspondence about salary, how did you leave things with Ms. Schroer, once you had let her know that you had information about the salary?
A I told him that I would start processing

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the paperwork.
Q And at any point did you have a conversation where Ms. Schroer suggested that you meet?
A Yes.
Q Okay.
A We did.
Q Tell me about that conversation.
A He said that he would like to get together for either coffee or lunch, to discuss more about the job and to -- how did he phrase it? There was something he wanted to tell me.
Q Was there any additional description of what that was?
A No.
Q Did you ask?
A No.
Q Did you have any suspicions about what Ms. Schroer might want to discuss with you?
A I wondered, yes. I mean, I wondered enough to stop writing the recommendation about four or five sentences into it. I thought I'll

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wait to see what he tells me on Monday.
Q So with respect to the written recommendation, when did you start writing those first few lines that you were just describing?
A After the conversation where I asked him if he was interested in the job, and the salary seemed to work out, resolve okay, seemed there was no impediment from there.
Q And was the discussion that you had about the salary and the discussion in which Ms. Schroer suggested that you meet, was that two discussions, or one?
A I think two, as I recall. I'm not sure.
Q And so when did -- did you agree to meet?
A Yes. Uh-huh.
Q And when did you agree that you would meet?
A The Friday before the Monday that we met.
Q Okay.
A We agreed to meet for lunch on Monday.

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Q Turning back briefly to our discussion about what it was that made Ms. Schroer the top candidate. You mentioned that the interview was very important in your determination that Ms. Schroer was the top candidate.

In what ways did the interview with Mr. Rollins not go as well as the interview you had had with Ms. Schroer?

A I thought Mr. Schroer was a little more insightful, particularly with response to the first couple of questions on policy analysis and -- "creative" I think is a word that I used when I met with him on Monday.

Q Okay. Anything else?

A No.

Q Okay.

THE WITNESS: Is this a good natural break?

MS. McGOWAN: I think it probably is. And so it seems like a time where we can begin our narrative after lunch.

(Whereupon, at 11:58 a.m., a

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luncheon recess was taken.)

AFTERNOON SESSION

(1:00 p.m.)

Whereupon,

CHARLOTTE P. PREECE,

was recalled as the witness and, having been previously sworn, was examined and testified further as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF CONTINUED BY MS. McGOWAN:

Q Okay. We're back from lunch. And we left off where we were talking about an agreement that you had with Ms. Schroer to meet. And my understanding was that it was a Friday when you agreed to meet, and then it was the following Monday that you actually met.

I'm going to show you a document that we will mark Exhibit 27.

(Deposition Exhibit No. 27 marked for identification.)

BY MS. McGOWAN:

Q Do you recognize this document?

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Actually, sorry. But while you review it, I will just identify it for the record. This is a document that's been produced in discovery by the Government. It's been Bates-stamp number 707. And at the top it says, Specialist in terrorism and international crime.

A Yes, I do.

Q And what is it?

A It is the beginning of a recommendation for Mr. Schroer.

Q Okay. And when did you draft this document?

A Thursday or Friday morning prior to the lunch.

Q And we discussed this briefly before the break.

Do you recall whether you began drafting this e-mail, or actually this document, before or after you agreed to have lunch with Ms. Schroer?

A Before.

Q Okay. And after you agreed to have lunch, did you -- is any of what appears in this

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document text that you drafted after agreeing to have lunch with Ms. Schroer?

A No.

Q Okay. Were there any other drafts of this document?

A No.

Q One question that I had is were you under any particular time constraints with respect to when you needed to make your final selection of the applicant for the terrorism specialist?

A I wanted to do it before Christmas.

Q And were there any particular rules or regulations that set out a deadline for you, or was that just an internal deadline for yourself?

A Yes. I requested once to have the vacancy announcement extended. You have to draft the letter of recommendation within I think it's five days of -- three or five days of when the posting closes. And so I think the posting was extended through the end of the month of December.

Q And by extending the posting, did that mean that applications could continue to come in

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for --
A No, no, no, no, no.
Q Okay.
A No. It just meant that we had longer to make the selection.
Q Okay. And what did you need to do, if anything, to request that extension?
A I needed to write a letter to the head of human -- an e-mail in this case to the head of human resources.
Q And who is that?
A I cannot remember. It's not the same person anymore. I can't remember the name of who it was at that time.
Q And do you recall roughly when you sent that e-mail?
A I believe it was early December.
Q And what did that e-mail say?
A Basically requested an additional two-week period to conduct reference checks and make the final -- make a recommendation.
Q And were you -- did you provide any

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additional reasons or any reasons as to why you needed an additional two weeks?
A Just what I told you. They're very short memos, generally, just a couple sentences.
Q And did you receive any response back to that request?
A An e-mail back that said that my request was approved.
Q Prior to the request being approved, were there any requests for additional information about why you needed more time?
A No.
Q Okay. Is it a common occurrence to ask for this kind of extension?
A It's not uncommon.
Q How often have you done it?
A Maybe one out of every four, one out of every five.
Q And so as a result of the extension, you had until when to make --
A I believe it was December 31st.
Q Okay. And by December 31st, what was it

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that you were obligated to do? Is it to write the --
A To prepare the recommendation, the director would have had to approve it, and the PAR would have been cut.
Q Okay. And is it possible to ask for more than one extension?
A You could ask for it.
Q If you ask for more than one extension, is your experience that you're then required to provide additional feedback --
A I would have had to provide additional justification.
Q So I want to turn to Monday now, when -- and I can take that document back from you.
A (Handing document).
Q Monday is, if I'm right, when you were scheduled to meet with Ms. Schroer; is that correct?
A Yes.
Q And just so that we're clear, I believe that was Monday, December 20th, 2004.

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Tell me, on that day, when did you first either speak or encounter Ms. Schroer?
A Mr. Schroer came to my office around noon.
Q So and were you going to actually have lunch at the Library, or had you planned to have lunch somewhere else?
A Somewhere else.
Q Okay. Can you describe for me the part of your meeting that took place up until you left your office at the Library?
A We chatted very briefly, just to exchange pleasantries, and we left. I introduced him to one or two people who were in the hall.
Q Do you remember who you introduced him to?
A No.
Q Were they individuals in your division of --
A Yes, yes --
Q -- the CRS?
A -- we were walk -- just walking out of

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my division.
Q And do you recall what you said in making this introduction?
A This is David Schroer, we hope to have him working with us on terrorism issues in the not-too-distant future.
Q Did you say anything to the affect of: Here is the new guy that we're bringing on?
A Here's the new guy that we're bringing on? I don't remember using that terminology. But certainly words to the affect that we had hoped to bring Mr. Schroer on board, yes.
Q At some point were you and Ms. Schroer in your office?
A Yes.
Q And did you have any conversation while you were in your office?
A Other than to exchange pleasantries, I don't recall an -- any conversation at all in my office.
Q Did you talk at all about your preparing of the paperwork for Ms. Schroer?

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A That's quite possible, that I said I was in the process of preparing paperwork, yes, uh-huh.
Q Do you recall showing Ms. Schroer, you know, paperwork regarding her application while you were in your office?
A No.
Q On your way out to lunch, leaving your office, did you encounter anyone?
A Yes. There were a few people walking by. And I introduced David to those people. I can't remember who they were.
Q Did you -- do you recall encountering Francis Miko on the way out?
A I don't recall.
Q Do you recall anything about those conversations on the way out?
A Not other than what I told you. They were very brief. We were -- I said from the time that David arrived in my office, we were three or four minutes until we left.
Q And do you recall anything that these

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individuals to whom you were introducing Ms. Schroer, do you recall what they said?
A No.
Q Did anyone say things to the affect of, you know, welcome on board or --
A Quite possibly. It would be good to have you. I don't know. I assume people were pleasant.
Q Is there anything else about the part of the meeting that happened while you were at the -- at your office at the Library?
A No. It was very brief.
Q Okay. Did you and Ms. Schroer converse on the way to where you were having lunch?
A I assume we chatted.
Q Tell me what you remember about that conversation.
A Nothing. The restaurant is two minutes from the Library.
Q Did you talk about the job?
A I do not recall.
Q Do you recall having any conversation

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about the people who work at the Library?
MS. RUSSELL: Objection. Vague.
THE WITNESS: At the luncheon we did.
BY MS. McGOWAN:
Q Okay. I'll hold off then for a second. I'll get us to lunch.
A Okay.
Q And so anything else about your conversation on your way to the restaurant that you remember?
A No.
Q Okay. And once you're at lunch, can I assume that conversation continued between you and Ms. Schroer?
A Yes.
Q Okay. Describe what you remember about that conversation.
A I was talking about what it was like to work at CRS. I was talking about our mission to serve Congress, our values of objectivity and nonpartisanship. I was describing how the sections were laid out, and the organization of

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the office. I was describing how we do our work. I described our research design and briefing process. I talked a little bit about what I call the culture of the office.
Q And how did you describe the culture?
A I remember telling him it was a very diverse and eclectic group of people, that we weren't stereotyped like many institutions are: The State Department, or the Intelligence Agency or, God forbid, lawyers.
MS. RUSSELL: I guess I can't raise an objection to that.
THE WITNESS: That people came from different backgrounds: People from academia, people from the military, people from other executive agencies, people from think tanks, and that I thought that that enriched the work of our division because people brought various perspectives to examining foreign and defense policy issues.
BY MS. McGOWAN:
Q Did you ever discuss why Ms. Schroer had

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emerged as your top candidate?
A He asked me that question. And I responded to it. And I told him pretty much what I told you, that I thought his answers were a bit more creative, that his contacts that he brought to bear, would bring to bear, would be useful in his position.
Q Anything else?
A I think I told him that we had a very strong applicant pool, and we had another highly qualified candidate that we looked at very carefully.
Q And did you have any conversation about why Ms. Schroer had beaten out that other candidate?
A Yes. That was the conversation based on the a little bit more creativity, imagination. Very strong interview, I told him he had a strong interview.
Q Anything else?
A In the conversation at lunch?
Q About this part of the conversation

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about --
A The qualifications?
Q Yes.
A That's what I recall.
Q At some point did Ms. Schroer tell you she had something she wanted to discuss with you?
A Yes.
Q Okay. Describe that conversation.
A He said that he had something personal that he wanted to talk to me about. And then he asked me if I knew what transgender migration was, or what I knew about it.
Q And was that the precise term that --
A That's the term I recall.
Q Okay. And what did you say when she asked you that?
A Very little, if anything.
Q And then where did the conversation go from there?
A He proceeded to describe it, and --
Q And how did he describe it?
A Well, he talked about that he'd always

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felt uncomfortable, there was something -- a level of discomfort in his life, and that he'd come to the realization over the years that he felt more comfortable -- he would feel more comfortable living life as a woman than a man.
And he told me that he was under -- had been consulting with a psychiatrist, and that was part of the process, and that he had been taking hormone treatment for about a year, and wanted to complete the other physical processes required for the migration, and that he would like to start work at CRS in January as a woman.
Q What was the first thing that went through your mind when you heard Ms. Schroer tell you that she wanted to start work as a woman?
A Wow, I can't believe this. I was stunned.
Q And how did you feel?
A Surprised, disbelieving.
Q Were you upset?
A Not initially. I think I was more just shocked.

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Q How did you feel when Ms. Schroer was explaining to you what it meant to be transgender, or what she meant by it when she told you that she was transgender?
A I was listening. I was trying to understand. I've never known anyone who has undergone the process, so I was listening.
Q Were you phased at all by this information?
MS. RUSSELL: Objection to the form of the question. It's vague.
But you can answer if you understand it.
THE WITNESS: If phased means shocked or surprised, yes.
BY MS. McGOWAN:
Q So this didn't strike you as just run-of-the-mill lunch conversation?
A No.
Q Had you ever had a discussion like this with anyone before?
A No.
Q So how did you respond?

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A I think I asked him to tell me how he came to that decision. He pulled out a portfolio and showed me some photographs on how he would present as a woman. I looked at those.
Q And what did you think?
A What did I think?
Q Looking at the photos.
A I thought he looked like a man dressed in women's clothes.
Q Anything else? What else went through your mind?
A That was -- I mean, confusion, I guess. At one point I think I asked him, David, how can I hire you as a man and you start work as a woman. We went on from there to talk about the security clearance. And he said that he knew he would be required to get a psychiatric fitness for duty determination.
Q And did he say how he knew that?
A He said that he knew other people who had gone through this process who had gotten security clearances.

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Q And did he describe at all what he understood their experience to be?
A No.
Q Did he tell you whether or not those individuals had kept their clearance?
A No.
Q Did you talk at all about sort of what all was involved in transitioning from male to female?
A We didn't get into bitty gritty details; but, yes, I mean, we -- there would be surgeries required, and physical changes.
Q And did you talk at all about what kinds of surgeries were going to be involved?
A No. I mean, not in detail.
Q Do you remember talking at all about Ms. Schroer's plans to have facial surgery?
A He told me he wanted to complete the process. And by that I took it to mean that he would need the electrolysis and implants and other surgery.
Q And did you talk at all about any plans

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for sort of full sex reassignment surgery?
A Not plans, no. I mean, nothing that I'm going to do this in February, I'm going to do this in December, no.
Q Was there any conversation about how this would impact on his ability to -- or her ability to start at work?
A No. I would say we talked for maybe 15 or 20 minutes after this revelation. And I think because I was confused and taken aback, I said that I would have to talk to people within my organization, and I would get back to him within 24 hours.
Q Did you ask Ms. Schroer who else knew that she was transitioning?
A I don't recall that.
Q Did you ask her if any of her job references knew that she was transitioning?
A I don't believe I did.
Q And did you have a conversation with Ms. Schroer about what name to use on the paperwork?

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MS. RUSSELL: Objection. Lacks foundation.
MS. McGOWAN: I'm sorry. Sure.
BY MS. McGOWAN:
Q Did you have a conversation with Ms. Schroer about the fact that you were filling out paperwork for the position and needed to know what name to use?
A No. I asked him how I could hire him as David and he would start work as Diane. And I was confused about paperwork, as well.
Q And tell me about that conversation.
Sort of what did Ms. Schroer say when you posed this question to her?
A I don't recall, other than he seemed to think that it could be worked out.
Q When you asked Ms. Schroer how could you hire her as David and have her start work as Diane, was it just a question of paperwork that you were concerned about, or did you mean something more?
A Well, I certainly knew I needed to check

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on the security clearance. That was foremost in my mind.
Q And why did you think that?
A Because David had a clearance. Diane didn't.
Q And what conversations, if any, did you have with Ms. Schroer at the time about this security clearance issue?
A I asked him how this was likely to affect his ability to get a security clearance.
Q And did you, at the moment you're asking Ms. Schroer the question, have a gut instinct about what impact it would have?
A I certainly had a feeling that it could slow things down a great, great deal.
Q Did you think that David Schroer would lose his security clearance over this issue?
A David, I didn't know about whether David would, but I knew Diane didn't have one.
Q Did you have any conversations at all about what of this information David -- what information, if any, David had already reported to

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the entity currently holding his security clearance?
A No.
Q Why not?
MS. RUSSELL: Objection. Calls for speculation.
But you can answer if you understand the question.
THE WITNESS: I didn't think of it at the time. You know, at this -- by this point, I needed advice.
BY MS. McGOWAN:
Q So I wanted to ask you, to the extent that you are articulating a concern that David had a clearance but Diane didn't, why did you think that the clearance that Ms. Schroer held as David would not apply to Diane, as well?
A I just didn't think it would. But that's why I ended the conversation, because I needed to go back and get advice from the security people.
Q Did you think that David would become a

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different person as Diane?
MS. RUSSELL: I'm going to object to the form of the question.
But you can answer if you understand.
THE WITNESS: Can you say what you mean by a different person?
BY MS. McGOWAN:
Q To the extent that David had a security clearance and the concern was that Diane did not, my question is did you think that David would be a different person as Diane, such that the information that they knew about David and that formed the basis for his security clearance decision would no longer be relevant for Diane?
A I don't think I thought of him as different in terms of what he knows. He would still have the same experiences he had, to carry with him as Diane. But how that affected the security clearance, I had a lot of questions about.
Q And what were those questions? What were you concerned about?

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A Was Diane going to be able to be cleared; and, if so, in a timely fashion.
Q And why were you concerned that Diane might not be cleared?
A Because the position required a top secret clearance, and because it was needed particularly to do this job.
Q And understanding that the position itself needed a clearance, why were you concerned that Diane might not get that clearance --
A In a timely way? Because he, himself, told me that he would likely have to have a psychological fitness for duty prior to a determination whether to proceed with the clearance.
Q Other than that information, was there any other concern that you had; for example, with regard to honesty?
A Yes. I felt deceived, somewhat deceived.
Q And did you address that concern with Ms. Schroer?

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A No.
Q At any point did you say something along the lines of: Why are you just telling me this now?
A I don't know if I -- I don't recall. I may have. I may not have. I don't recall.
Q When I asked you sort of your reaction when you first heard this information, my understanding is you said that you weren't upset initially?
A Yes.
Q Is there a point at which you became upset?
A Not upset visibly. But as the conversation went on, I thought -- I did think to myself certainly why are you telling me this and why are you telling me now? Why didn't you come to the interview dressed as a woman? He had told me, during the course of the conversation, that he was presenting himself as a woman except in work settings.
Q And what did you think about that?

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MS. RUSSELL: Lacks foundation.
But you can answer if you understand the question. And it also -- no, I'll just stick with the same objection. It lacks foundation.
But you can answer if you understand.
THE WITNESS: Certainly my personal preference was that if he were open and honest about this and come to the interview dressed as a woman, at least I wouldn't have been -- felt deceived.
BY MS. McGOWAN:
Q And did you have any conversations with Ms. Schroer about what her legal name was at that point?
A He told me that he would be changing his name early in January to Diane.
Q So up until that point, Ms. Schroer's legal name was still David Schroer?
A That's what he was using, yes.
Q So what would you have thought if on December 28th, I think it was, at 10:00 a.m., when the person on your interview list named David

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Schroer was scheduled to appear, a woman in a dress showed up for the interview?
MS. RUSSELL: Calls for speculation.
But you can answer if you understand.
THE WITNESS: What would I -- I'm sorry?
BY MS. McGOWAN:
Q What would you have thought?
A I would have thought the person was a transsexual.
Q And how would that have impacted your assessment of that applicant?
A I would have probably consulted personnel security to see if there were implications for an individual's ability to get a security clearance.
Q Other than the security clearance issue that you just identified, would you have thought that this individual being transsexual impacted on their KSA's, in knowledge, skills, and abilities, for the position?
A No, other than contacts. I did have some concerns about whether his contacts knew,

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whether they would be as forthcoming as they might be had he not revealed this or undergone the procedures.
Q And would your concern about contacts have been less if Ms. Schroer had come to the interview dressed as a woman?
A They would have been there under that case, as well.
Q Do you recall, when Ms. Schroer told you that she was transitioning from male to female, do you recall saying anything along the lines of, you know: Why would you want to do something like that, or words to that affect?
A I think I did ask him how did you come to this decision, why did you do that, yes.
Q And what was his response? What was Ms. Schroer's response?
A To the best of my recollection, he said that he had never felt comfortable in his body, and that it was something that he -- probably came to him as -- as -- when he was young, but it took a long time for him to come to the realization

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that, yes, I would be more comfortable in a female's body.
Q And so you -- am I right you were told by Ms. Schroer that this was something that she had been dealing with for a long time; is that right?
A Yes. Uh-huh.
Q And to the extent that this was something that Ms. Schroer had been dealing with for a long time, were you concerned at all about how Ms. Schroer's decision to appear at work as a woman may or may not distract her from her work duties?
A I'm sorry. Please repeat that.
Q Sure. I'll make it a shorter question.
Were you concerned at all about Ms. Schroer's transition as being a distraction?
A I was concerned in terms of the surgeries. And I knew nothing about how many surgeries would be required, how long they would take.
Q And did you ask Ms. Schroer for any

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information that might give you a better sense about that?
A I don't recall that I did.
Q What did you think about the fact that Ms. Schroer had brought pictures of herself dressed as a woman to this meeting?
MS. RUSSELL: Objection. Lacks foundation.
BY MS. McGOWAN:
Q Let me back up.
I think we discussed that at some point in the meeting Ms. Schroer showed you pictures; is that correct?
A That's correct.
Q And these were obviously pictures that she had brought to the meeting to show you; is that right?
A That's right.
Q Okay. What did you think about the fact that she had brought these pictures to this meeting?
A I guess I thought David wants to see

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me -- wants to show me what he would look like as a female. I don't think I thought anything beyond that.
Q Do you recall what you said first when you saw the pictures?
A I don't think I said much of anything.
Q Do you recall saying "wow," or words to that affect?
A No.
Q Did you think it was appropriate for Ms. Schroer to show you those pictures?
A I didn't know what was appropriate.
MS. RUSSELL: Objection to the form of the question.
Go ahead.
BY MS. McGOWAN:
Q I'm sorry?
A I didn't know what was appropriate.
Q So after hearing this information, did you have any concern that the contacts that Ms. Schroer had in the government and the military would no longer want to associate with her because

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she was undergoing a gender transition?
MS. RUSSELL: Object to the form.
But you can answer if you understand.
THE WITNESS: Yes. I think I already mentioned that.
BY MS. McGOWAN:
Q Okay. And why did you think that?
A The military being the culture it is, and particularly special forces, I thought it's possible that some people would be understanding and others would not.
Q And when you talk about the culture of the military, what do you mean?
A Combat lines, uniquely male profession.
Q Did you think of the military as being a particularly unfriendly or unsympathetic place with respect to transgender people?
A I thought it was likely probably to have a more conservative attitude than the general population at large.
Q And in this context, by conservative, is it fair to say that mean negative?

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MS. RUSSELL: I'm going to objection to the form of the question.
But you can answer if you understand.
THE WITNESS: Conservative in terms of traditional values than is being seen as outside those traditional norms.
BY MS. McGOWAN:
Q Were you concerned about bias by military people against Ms. Schroer if she were in the position?
A Yes.
Q And with respect to this concern about her contacts with government and military people and possible bias, did you express any of those concerns to her?
A No. I was to the point where I didn't want to say anything more, because I needed to process it. I needed to go back to my agency, talk to some people.
Q And so did you ask her if any of her special forces, you know, colleagues knew that she was transitioning?

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A I didn't ask that.
Q As you were hearing this information, what were you thinking with respect to Ms. Schroer's trustworthiness?
A As I said, I felt somewhat deceived.
Q And why did you think that?
A Because he waited for so late in the game to talk to me about this.
Q And when in the process do you think Ms. Schroer should have told you?
A He could have told me at any time. He could have told me at the interview or after the interview. He could have told me when I contacted him to let him know that he was a top candidate and that I would be starting reference checks.
Q And -- I'm sorry. Continue.
A He could have called me any time while those reference checks were going on and we were in fairly routine contact by phone or by e-mail.
Q And if at the point where you contacted Ms. Schroer regarding her reference checks she told you this information about her intentions to

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transition, would you have gone forward and contacted her references, or would you have walked away at that point?
MS. RUSSELL: Objection to the form. Calls for speculation.
THE WITNESS: I would have probably did the same thing I did in this circumstance, and go back talk to my boss and talk to personnel security to determine impact.
BY MS. McGOWAN:
Q Did you say anything to Ms. Schroer about feeling deceived, or your concerns about her trustworthiness?
A I don't recall that I did.
Q Is there anything else that you remember discussing during this lunch?
A I remember saying something to the affect that, David, you've given me a lot to think about. I need to go back to my office and talk to some people. I do want to fill this position by Christmas, and so I'll get back to you in a timely manner.

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Q Anything else?
A That's -- that was pretty much the end of the conversation.
Q Okay. And before we end this part of the conversation, I just want to go back and make sure that I am clear about everything that you discussed.
When you raised this issue with Ms. Schroer of how can I hire you as David when you want to show up as Diane, other than the name on the form and other than the security clearance concern that you identified, did you mean anything else by that question?
MS. RUSSELL: I'm going to object to the extent it mischaracterizes her testimony.
But you can go ahead and answer if you understand the question.
THE WITNESS: Please repeat it.
BY MS. McGOWAN:
Q Sure. We've talked about the concern about the name that goes on the paperwork, whether it should be David or whether it should be Diane.

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And also talked about your concern about the security clearance issue.
I'm sort of wondering if there's anything else that you were trying to convey when you asked Ms. Schroer: How can I hire you as David when you want to come to work as Diane?
MS. RUSSELL: It's the same objection.
But answer it if you understand it.
THE WITNESS: It was a practical question. David Schroer applied. David Schroer interviewed. I did reference checks on David Schroer. He wants to start work as Diane. I didn't hire Diane. I didn't recommend Diane. I didn't interview Diane.
BY MS. McGOWAN:
Q And in what ways were you concerned that Diane would be different from David?
MS. RUSSELL: Objection to the form.
BY MS. McGOWAN:
Q Or were there any ways in which you were concerned that Diane would be different from David in a way that would impact your decision about

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whether you wanted Diane when you had wanted David?
A Just the security clearance.
Q Okay.
A The contacts.
Q Uh-huh. Anything else?
A Those were the primary.
Q Recognizing that these two were the primary reasons, were there any other reasons, even recognizing that they may have been less important?
A Credibility with members of Congress went through my mind.
Q And by credibility, what do you mean?
A This position is a senior position. It would likely be that -- or it was certainly expected to be that this person would have close contacts with committees, potentially be called to testify. Generally when you testify they read a bio about yourself. He would be testifying before people who knew -- would know that only a man could have those experiences.

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Q And were you concerned that people would react negatively?
A Yes.
Q And why is that?
A That they might not be as tolerant, the same reason as the contacts.
Q And so with respect to the credibility with members of Congress, is it fair to say that you were concerned about bias against plaintiff by individuals who disapproved of transgender people?
A I thought it was possible.
Q And did you -- were you concerned that people might be less interested in what she had to say because she was transgender?
A Yes.
MR. ESSEKS: Why don't we take five minutes.
MS. McGOWAN: We'll take a five-minute break here, and be back at 2:00.
(Recess)
BY MS. McGOWAN:
Q So we're back from our break. And we

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were just wrapping up our conversation about the lunch meeting that you had with Ms. Schroer.
Before I sort of move to what happened next, I'll just ask you is there anything else about that conversation that we haven't discussed?
A Not that I recall at the moment.
Q And how did you wrap things up?
A I think with that last statement that I said there, David, you've given me a lot to think about. I need to go back to the Library and talk to some officials, that I want to finish this posting around the Christmas -- before Christmas, and that I will be back to you -- I can't remember whether I said the next day or in 24 hours, but soon.
Q And at some point you and Ms. Schroer part ways; is that right?
A Yes.
Q Okay. So did you walk back to your office by yourself, or was Ms. Schroer still with you?
A Well, we walked out of the restaurant

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together. I don't think he went back into the building with me.
Q Okay. What were you thinking as you walked back to your office after lunch?
A That was the most incredible experience I ever had.
Q And what do you mean by incredible?
A Unbelievable. It's just not what I expected at all.
Q Now, you mentioned -- and correct me if I'm wrong -- that you said that you had never known a transgender person before; is that right?
A Yes.
Q So how do you know whatever you knew at that point -- how did you know whatever you knew at that point about what it meant to be transgender?
A From what David told me.
Q Had you ever, you know, seen any television shows or movies about transgender people?
A No. The only recollection that I had

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was of tennis, was Rene Richards, when she played with Billy Jean King. Yes, I am that old.
Q And what did you know about Rene Richards? And how did that sort of inform what you knew about transgender people?
A I just knew that there was a sex change.
Q And have you ever interacted with anyone who's transgender?
A I don't believe I have. It's possible that I may have, but not to my knowledge.
Q And this is sort of a subpart of this question, but have you ever interacted with anybody at the Library of Congress who's transgender?
A Not that I know of.
Q And have you ever interacted with someone whom you didn't know at the time was transgender, but then later found out that they were?
A No.
Q Are you familiar with the movie "Trans-America"?

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A No.
Q Okay. Other than the television reports you mentioned about Rene Richards, have you seen any television documentaries or news shows about transgender people?
A No.
MS. RUSSELL: Objection, to the extent it that it mischaracterizes her testimony.
But you can answer if you understand.
THE WITNESS: If I understand, you asked me if I have seen any --
BY MS. McGOWAN:
Q Television --
A -- television shows or documentaries about transgender migration issues? No.
Q When you learned that Ms. Schroer is in the process of transitioning from male to female, did that make you feel uncomfortable at all?
A I would say more curious than uncomfortable. I was trying to understand it.
Q Did you feel differently interacting with her once she told you that she felt like she

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was a woman?
A Not about the individual, no. I knew it was going to create all kinds of complexities. But as far as the way I felt toward David, no.
Q And so from your perspective, nothing about your interaction was any different after you learned that Ms. Schroer was a transsexual woman?
MS. RUSSELL: Objection to the form. You can answer if you understand.
THE WITNESS: I won't say nothing was different. My feelings about David's competencies, his knowledge, his experience was -- was not different. Yes, I was surprised, as I stated. And, yes, it did raise concerns about whether he was going to be able to -- whether she was going to be able to fill the institutional needs that the organization had.
BY MS. McGOWAN:
Q And so other than that, other than your thinking through the impact of this information on the job, you had no other personal reaction to the news?

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A No. I mean -- no. I didn't bear him ill will as a result of it, no.
Q And not even ill will. Was there any way in which you felt differently interacting with Ms. Schroer after you learned this news?
MS. RUSSELL: Same objection. Form.
THE WITNESS: Please repeat.
BY MS. McGOWAN:
Q Sure. You mentioned that you didn't have any ill will.
And I was asking, putting aside sort of any, you know, feelings of ill will towards Ms. Schroer, was there anything about your interaction with Ms. Schroer that felt different after she tells you: I'm a woman?
A Just what -- what I was going to need to do, but not about him as an individual.
Q Did you have any concern that Ms. Schroer wouldn't pass for a woman if she came to the Library of Congress dressed as a woman?
MS. RUSSELL: Objection to the form.
THE WITNESS: That wasn't a

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consideration that crossed my mind.
BY MS. McGOWAN:
Q Did you think individuals who had not met David Schroer would see Diane Schroer and suspect that this was a transsexual person?
A Again, that was a fleeting thought in my mind, if that. These other real factors were. The security clearance, by far the dominant, was what I was focusing on. When I came back and I talked to the director, the first person I talked to was Cynthia Wilkins. That was my overriding concern.
Q And we'll definitely talk about what happened when you got back to the office.
My question is, in light of what you saw in the pictures that Ms. Schroer shared with you and the concerns that you expressed about how she looked, were you concerned that other people would react to Ms. Schroer as a man in a dress?
A I don't know if "concerned" is the right word. Yes, they probably would have.
Q As far as the individuals who are in the

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specific unit where the terrorism specialist would have worked -- and I believe that's Mr. Miko's unit -- how many people are in that unit, if that's the right term to describe the section?
A Roughly 12, 13.
Q And how many of those people are -- in that unit are military veterans?
A Only the person who was hired for the position.
MR. ESSEKS: Mr. Rollins?
THE WITNESS: Yes.
BY MS. McGOWAN:
Q And how many men and woman are in that unit?
A That may take me a minute.
Q Okay.
(Whereupon at which time the witness wrote on a piece of paper.)
THE WITNESS: And now that I am composing this list, I now see that there is another man who is -- had military experience, as